

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

MICHAEL E. MCKINZY, SR.,)
Plaintiff,) Case No. 10-0237-CV-W-DGK
v.)
KANSAS CITY POWER & LIGHT CO.,)
Defendant.)

ORDER

Pending before the Court is Defendant Kansas City Power & Light Company's ("KCP&L") Motion to dismiss pursuant to 28 U.S.C. § 1915(e)(2)(B). Doc. 8. The Court has reviewed this Motion in conjunction with Defendant's Suggestions in Support, Plaintiff Michael McKinzy's Response and Defendant's Reply. Docs. 9-11. Plaintiff is suing for race discrimination, alleging that KCP&L refused to hire him for various positions on account of race. The Court notes that Plaintiff has pursued these types of cases before, including against KCP&L. On December 22, 2009, the Honorable Carlos Murguia, United States District Judge for the District of Kansas, awarded KCP&L over \$21,000 in costs and fees against Plaintiff. Judge Murguia found that the case was "unreasonable and without foundation." On March 12, 2010, Plaintiff moved for in forma pauperis status in the instant case. On March 24, 2010, the United States Court of Appeals for the Tenth Circuit dismissed his appeal from the District of Kansas case, noting that "[Plaintiff] is perilously close to being deemed an abusive litigant. If he continues to appeal dismissals of frivolous discrimination lawsuits, he will be subject to sanctions under this court's inherent powers to control its docket..." 2009 WL 4298573 at *3. The Tenth Circuit proceeded to place filing restrictions on Plaintiff in the same order. Plaintiff's

Response to the pending Motion is essentially nonresponsive, characterizing Defendant's position as requesting a heightened pleading standard. Plaintiff is suing Defendant for reasons identical to those found to be baseless in the District of Kansas, albeit with different dates. The Court finds that Plaintiff's course of conduct in this case and the District of Kansas case shows that this case is frivolous and malicious, and should be dismissed pursuant to section 1915(e)(2)(B)(i). Accordingly, Defendant's Motion is GRANTED.

IT IS SO ORDERED

Dated: June 22, 2010

/s/ Greg Kays
GREG KAYS,
UNITED STATES DISTRICT JUDGE